

(Sri B. D. JATTI)

(c) This Government is not aware.

(d) *Vide* reply to item (b).

THE MYSORE PUBLIC CONVEYANCES BILL, 1960 AS PASSED  
BY LEGISLATIVE COUNCIL.

*Clause by Clause Consideration—Debate—(Continued)*

†ಶ್ರೀ ಎಚ್. ಎಂ. ಚನ್ನಬಸಪ್ಪ (ಗೃಹ ಶಾಖಾ ಸಚಿವರು).—ಸ್ವಾಮೀ, ನಿನ್ನೆಯ ದಿವಸ ಇದರ ಬಗ್ಗೆ ಹೇಳಿದ್ದೇನೆ. ಬೈಸಿಕಲ್ಲು ಅಂಗಡಿಗಳನ್ನು ಇಟ್ಟುಕೊಂಡು ಯಾರು ಬಾಡಿಗೆಗಾಗಿ ಉಪಯೋಗಿಸಿಕೊಳ್ಳುತ್ತಿದ್ದಾರೋ ಅಂತಹ ಬೈಸಿಕಲ್ಲುಗಳು ಈ ಶಾಸನಕ್ಕೆ ಒಳಪಡುವುದಿಲ್ಲ ಮತ್ತು ಬೈಸಿಕಲ್ಲು ರಿಕ್ಷಾಗಳನ್ನು ಕಾರಾನುಗುಣವಾಗಿ ತಪ್ಪಿಸಬೇಕು ಎನ್ನುವುದು ಸರಕಾರದ ಉದ್ದೇಶವಾಗಿದೆ. ಅವುಗಳು ಕಷ್ಟವಾದುದು ಎಂದು ಈಗ ಅಂತಹ ಗಾಡಿಗಳಿಗೆ ಪರ್ಮಿಟ್ ಕೊಡುವುದನ್ನು ಸ್ವಲ್ಪ ಕಡಿಮೆ ಮಾಡಿದ್ದೇವೆ. ಅವುಗಳಿಗೆ ಬದಲಾಗಿ ಅಚೋ ರಿಕ್ಷಾಗಳನ್ನು ಹೆಚ್ಚು ಮಾಡಬೇಕೆಂದಿದೆ. ಅಲ್ಲದೇ ಈಗಲೇ ಇವುಗಳನ್ನು ರದ್ದು ಮಾಡಬೇಕೆಂದರೆ ಸ್ವಲ್ಪ ಕಷ್ಟವೆಕೆಲಸ. ಇದು ಅಡಳಿತಕ್ಕೂ ಕಷ್ಟ ಮತ್ತು ಜನಗಳಿಗೂ ಕಷ್ಟವಾಗುತ್ತದೆ. ಈ ದೃಷ್ಟಿಯಿಂದ ಈ ತಿದ್ದುಪಡಿಯನ್ನು ಮಾನ್ಯ ಸದಸ್ಯರು ವಾಚನು ತೆಗೆದುಕೊಳ್ಳಬೇಕೆಂದು ಕೇಳಿಕೊಳ್ಳುತ್ತೇನೆ.

Mr. SPEAKER.—The question is:

“That in line 2 of item (5), after the words ‘motor vehicle’ the words ‘or a bicycle’ shall be inserted”.

*The amendment was negatived.*

Mr. SPEAKER.—The question is:

“That Clause 2 stand part of the Bill.

*The motion was adopted.*

Clause 2 was added to the Bill.

Mr. SPEAKER.—The question is:

“That clause 3 stand part of the Bill.”

*The motion was adopted.*

Clause 3 was added to the Bill.

*Clause 4.*

Mr. SPEAKER.—There is an amendment.

Sri M. C. NARASIMHAN.—I beg to move:

“That in sub-clause (1) the words ‘who is not less than eighteen years of age and’ shall be deleted”.

Mr. SPEAKER.—Amendment moved:

“That in sub-clause (1), the words ‘who is not less than eighteen years of age and’ shall be deleted.”

†Sri M. C. NARASIMHAN.—I do not see any reason why the registration of a vehicle should be conditional upon the owner of the vehicle attaining the age of 18 years of age. Under the Motor Vehicles Act there is no such requirement. The owner comes into the picture only for certain clauses. So I am afraid that this condition would not be proper and in consonance with fair play especially when such a condition is not there in similar enactments. That is way I have proposed this amendment.

†ಶ್ರೀ ಎಚ್. ಎಂ. ಚನ್ನಬಸಪ್ಪ.—ಸ್ವಾಮೀ, ಈ ಅದ್ವೈತದಿಯನ್ನು ಒಪ್ಪಿಕೊಳ್ಳುವುದಕ್ಕೆ ಆಗುವುದಿಲ್ಲ. ಮಾಲೀಕರಾಗುವವರು ಈ ಸೆಕ್ಷನ್ನಿನ ಪ್ರಕಾರ ಇಂತಹ ವಾಹನಗಳನ್ನು ಹೊಂದುವುದಕ್ಕೆ ಮಾತ್ರ ಇದನ್ನು ರಿಜಿಸ್ಟರುಮಾಡುವಾಗ ಕೆಲವು ವಿಚಾರಗಳನ್ನು ಕೂರ್ಚಿಗೆ ಕೊಡಬೇಕಾಗಿ ಬರುತ್ತದೆ. ಹಾಗೆ ಕೊಡವೇ ಇದ್ದರೆ ಶಿಕ್ಷೆಯಾಗುತ್ತದೆ. ಆದ್ದರಿಂದ ಮೈನರುಗಳನ್ನು ರಿಜಿಸ್ಟರು ಮಾಡಿಕೊಳ್ಳುವುದಕ್ಕೆ ಸಾಧ್ಯವಿಲ್ಲ. ಆದಕಾರಣ ಈ ಅದ್ವೈತದಿಗೆ ಒಪ್ಪಿಗೆ ಕೊಡುವುದಕ್ಕೆ ಸಾಧ್ಯವಿಲ್ಲ.

Mr. SPEAKER.—The question is:

“That in sub-clause (1) the words ‘who is not less than eighteen years of age and’ shall be deleted”.

*The amendment was negatived*

Mr. SPEAKER.—The question is:

“That clause 4 stand part of the Bill”.

*The motion was adopted.*

Clause 4 was added to the Bill.

*Clause 5.*

Sri M. C. NARASIMHAN.—I beg to move:

“That in item (2) for the words ‘a particular’ the word ‘prescribed’ shall be substituted”.

Mr. SPEAKER.—Amendment moved:

“That in item (2) for the words ‘a particular’ the word ‘prescribed’ shall be substituted.”

†Sri M. C. NARASIMHAN.—Sub-clause 2 entitled a Controller to refuse registration of vehicles in general interest. My view is that this should be prescribed in the rules. If that is done, the public will know where they stand. We were told yesterday by the Hon’ble Minister for Home that it is Government’s intention to limit manually drawn rikshaws which carry human beings. If that be so, it must be prescribed in the rule so that when the time comes, manually-drawn rikshaws may be prohibited. Moreover the word “particular” is vague and I do not know what it implies. Therefore I suggest that instead of the word “particular” the word “prescribed”, be substituted.

†Sri V. SRINIVASA SHETTY.—I am wholeheartedly in support of my friend's amendment but I do think that Clause 2 which authorises making of rule by Government, would be enough, I do not think this amendment would be strictly necessary, though it would make matters clear.

†Sri H. M. CHANNABASSAPPA.—I am glad Mr. Srinivasa Shetty has made matters more easy for me. As it is, for the proper implementation of the Act, we have ample powers to frame rules. Therefore I do not see any reason why there should be a replacement of the word "particular" by the word "prescribed".

Sri M. C. NARASIMHAN.—I would like to withdraw the amendment.

*The amendment was by leave of the House withdrawn.*

Sri M. C. NARASIMHAN.—I beg to move :

"That the following second proviso shall be added after the existing proviso" :

"Provided further that before so limiting the number of vehicles plying in any area, the Superintendent of Police shall follow the prescribed procedure."

Mr. SPEAKER.—Amendment moved :

"That the following second proviso shall be added after the existing proviso" :

"Provided further that before so limiting the number of vehicles plying in any area, the Superintendent of Police shall follow the prescribed pocedure."

†Sri M.C. NARASIMHAN.—Yesterday, while making his observations, the Leader of the Opposition pointed out that the question of limiting the number of vehicles plying in any area, may lead to certain administrative difficulties. The Superintendent of Police, who has to do this, will be put to the difficulty of selecting vehicles. For this, I believe, a definite procedure should be laid down in the rules which would help the Superintendent and also the public would know whether there is a reasonable chance of their getting registration or not. Thus multiplicity of applications could be avoided.

†Sri H. M. CHANNABASAPPA.—This amendment is not acceptable. It is true that I have made an observation during the course of my reply that while limiting the number of vehicles in a particular area certain procedure will have to be adopted in making a selection out of the number of applicants. Normally the number should not be limited at all. Wherefor special reasons limitation is found necessary, we do not want anybody other than the State Government to exercise that power of giving direction of limiting and the extent to which it should be limited. Such restriction would be imposed for very good reasons because it involves taking away the right of certain people to carry on a

profession. Great caution and due examination would be made. We do not want any lower officer to exercise that power.

In regard to the question how a selection would be made in a case of limitation, there is ample provision under the rules prescribing the procedure to be adopted in the matter of selection.

Sri M. C. NARASIMHAN.—There is nothing the rule making powers or under the clauses which would confer that power subject to the rules.

Sri H. M. CHANNABASAPPA.—I do appreciate the apprehensions of the Hon'ble Member. I do give an assurance that in the rules we will prescribe the necessary procedures.

Sri M. C. NARASIMHAN.—In view of the assurance, I would like to withdraw the amendment.

*The amendment was by leave of the House withdrawn.*

Sri M. C. NARASIMHAN.—I beg to move :

“That the following item shall be added after item (ii) :—

(iii) to refuse to register any public conveyance drawn or pushed by man intended to carry passengers if in the opinion of the State Government or such other authority as may be prescribed such refusal is deemed necessary in public interest or morality or decency.”

Mr. SPEAKER.—Amendment moved :

“That the following item shall be added after item (ii) :—

(iii) to refuse to register any public conveyance drawn or pushed by man intended to carry passengers if in the opinion of the State Government or such other authority as may be prescribed such refusal is deemed necessary in public interest or morality or decency.”

†Sri M. C. NARASIMHAN.—Sir, a suggestion was made in the course of the general debate that rikshaws pulled by man and carrying passengers should be banned and that the Government should have enough power to do it. It is not clear whether clause 5 would fulfil this purpose. Hon'ble Minister assured that this matter would be considered in order to enable the Government to refuse registration of such public conveyances as are pushed by men and intended to carry passengers. I have suggested this amendment.

2-30 P.M.

†Sri H. M. CHANNABASAPPA.—In the light of the remarks I have already made in regard to the Government's intention to eliminate these rikshaws drawn by men, I think there is no necessity for this amendment.

Sri M. C. NARASIMHAN.—Are you advised that there is enough of provision under Section 5 as it stands to-day?



Sri H. M. CHANNABASAPPA.—I have already made a categorical statement that Government do not intend to give any further licence and we are going to replace the existing ones as and when necessary by auto-rickshaws.

Sri M. C. NARASIMHAN.—Have you powers under Section 5 as it stands to-day? We were under the impression that under Section 5 as it stands to-day, there is no authority for you to ban these rickshaws.

Sri H. M. CHANNABASAPPA.—We have enough powers to deal with the question otherwise.

Sri M. C. NARASIMHAN.—Then I seek leave of the House to withdraw my amendment.

*The amendment was, by leave of the House withdrawn.*

Mr. SPEAKER.—The question is :

“That Clause 5 stand part of the Bill.”

*The motion was adopted.*

Clause 5 was added to the Bill.

Mr. SPEAKER.—The question is :

“That Clause 6 stand part of the Bill.”

*The motion was adopted.*

Clause 6 was added to the Bill.

Mr. SPEAKER.—Clause 7.

Sri M. C. NARASIMHAN.—Sir, I beg to move :

“That for the word ‘and’ in item (2), after the word ‘name,’ a ‘comma’ shall be substituted.”

“That after the word ‘residence’ in item (2), the words ‘and age’ shall be inserted.”

Mr. SPEAKER.—Amendment moved :

“That for the word ‘and’ in item (2), after the word ‘name’ a ‘comma’ shall be substituted.”

“That after the word ‘residence’, in item (2), the words ‘and age’ shall be inserted.”

†Sri M. C. NARASIMHAN.—It is a very simple amendment and only by way of clarification. In the other analogous clause, that is, Clause 16 where grant of driver's licence is there, we have similarly residence and age. Here so far as the registration of vehicle is concerned, it is dependent upon age as stipulated in Section 4. It is only by way of clarification that I have suggested that age also be included in the particulars to be entered in the register.

†Sri H. M. CHANNABASAPPA.—These amendments are not quite necessary.

Sri M. C. NARASIMHAN.—Section 4 requires that he should not be less than 18 years of age.

Sri H. M. CHANNABASAPPA.—That is nothing to do with this. He must be more than 18. It need not be repeated in item (2). In regard to the other amendment, namely after the word 'and', a comma should be substituted, it is not necessary.

Mr. SPEAKER.—I shall put the second amendment to vote. The first one is consequential.

The question is :

“That after the word ‘residence’ in item (2), the words ‘and age’ shall be inserted.”

*The amendment was negatived.*

Mr. SPEAKER.—The question is :

“That Clause 7 stand part of the Bill.”

*The motion was adopted.*

Clause 7 was added to the Bill.

Mr. SPEAKER.—Clause 8.

Sri V. SRINIVAS SHETTY.—Sir, I beg to move :

“That in the first line for the Letter ‘A’, the words ‘An annual’ shall be substituted.”

“That item (e) shall be deleted.”

Mr. SPEAKER.—Amendment moved :

“That in the first line for the Letter ‘A’, the words ‘An annual’ shall be substituted.”

“That item (e) shall be deleted.”

†Sri V. SRINIVAS SHETTY.—Clause 8 says :

“A fee shall be paid to the Controller for each licence of such sum as may be notified by the State Government, subject to the condition that no such fee shall exceed the fee specified hereunder.”

It does not say it is annual or for six months; it is not clear. I know in municipalities they levy taxes for six months. Nowhere is it clear that this is an annual thing.

Sri H. M. CHANNABASAPPA.—In Section 6 (2) :

“A licence granted under this section shall be in force for the year of registration.”

Sri V. SRINIVAS SHETTY.—Does it mean to say that the fee is for full year ?

Sri H. M. CHANNABASAPPA.—One year.

Sri V. SRINIVAS SHETTY.—As the Leader of the Opposition already said, levying a tax on the bullock-cart is too much.

Sri H. M. CHANNABASAPPA.—It is not that we are very very particular to make money out of this. We would like to the vehicles plying for hire under a certain amount of hire and the drivers also have to adopt the procedure prescribed. It is with that view the provision is going to be made. It is Rs. 2 for the whole year; it is a very small amount.

Sri V. SRINIVAS SHETTY.—I don't press my amendment.

*The amendment was by leave of the House withdrawn.*

Mr. SPEAKER.—The question is :

“That clause 8 stand part of the Bill.”

*The motion was adopted.*

Clause 8 was added to the Bill.

Mr. SPEAKER.—Clause 9.

Sri M. C. NARASIMHAN.—Sir, I beg to move :

“That the words ‘or when there is a breach of any of the conditions of the licence’ occurring at the end shall be deleted.”

Mr. SPEAKER.—Amendment moved :

“That the words ‘or when there is a breach of any of the conditions of the licence’ occurring at the end shall be deleted.”

†Sri M. C. NARASIMHAN.—The point is very simple. So far as I can look into the provision either of Section 6 or of Section 8, there is no particular condition attached to the issue of licence excepting name, age and other particulars; where there would be any violation as such there are no conditions. In the Motor Vehicles Tax Act there are no conditions prescribed for the issue of licence. In the wording of the section, there is no condition contemplated. The only condition is the signature of the applicant. There cannot any violation or breach of such a condition. What is contemplated in this section is ‘breach of any of the sections or the rules governing the other provisions, it may be put in appropriately.

†Sri H. M. CHANNABASAPPA.—The Controller may prescribe certain observances to be followed by the owner of the vehicle.

Sri J. B. MALLARADHYA.—May I draw the attention of the Minister to Section 48 (2). Are those the conditions to be contemplated?

“In particular and without prejudice to the generality of the foregoing power such rules may be made with regard to.....

“(b) the description of horses, bullocks or other animals, harness and other things to be used with vehicles, the dimension of such vehicles, and the condition in which such vehicle and the horses, bullocks.....”

Are those the conditions to be contemplated?

ಶ್ರೀ ಎಚ್. ಎಂ. ಚನ್ನಬಸಪ್ಪ.—ಕಂಡಿಷನ್ಸ್ ಏನು ಎನ್ನುವುದನ್ನು ಹಾಕುತ್ತೇವೆ. ಅದಕ್ಕೆ ಯಾವ ರೀತಿಯಲ್ಲಾದರೂ ತಪ್ಪಿದರೆ ಲೈಸೆನ್ಸ್ ರದ್ದು ಮಾಡುತ್ತೇವೆ. ಸಸ್ಪೆಂಡ್ ಮಾಡುತ್ತೇವೆ. ಕಂಡಿಷನ್‌ಗಳನ್ನು ತಪ್ಪು ನಡೆಯುವುದು ಒಂದು ಕಾರಣವಾಗಬಹುದು. Whatever is required to be observed by the owner of the vehicle under the rules. may be prescribed. If any of these conditions are to be breached, the licences should be suspended.

Sri M. C. NARASIMHAN.—What are the conditions ?

ಶ್ರೀ ಎಚ್. ಎಂ. ಚನ್ನಬಸಪ್ಪ.—ಕಾನೂನಿಗೆ ವಿರೋಧವಾಗಿರುವ ಕಂಡಿಷನ್‌ಗಳನ್ನೂ ಹಾಕುವುದಿಲ್ಲ. ಕಾನೂನಿಗೆ ಒಳಪಟ್ಟಿರುವ ಕಂಡಿಷನ್‌ಗಳು ಏನಿವೆಯೋ ಅದನ್ನು ಹಾಕುತ್ತೇವೆ. ಹೀಗೆ ಹಾಕಿರುವ ನಿಯಮಗಳನ್ನು ಉಲ್ಲಂಘಿಸಿದರೆ ಲೈಸೆನ್ಸ್ ಸಸ್ಪೆಂಡ್ ಮಾಡುವ ಅಥವಾ ರದ್ದು ಮಾಡುವ ಅಧಿಕಾರ ಇರಬೇಕೆಂದು ಹಾಕಿದೆ. It is an enabling clause.

Mr. SPEAKER.—The question is :

‘That the words ‘or when there is a breach of any of the conditions of the licence’ occurring at the end shall be deleted.’

*The Amendment was negatived.*

Mr. SPEAKER.—Clause 9. The question is :

“That Clause 9 stand for the Bill”

*The motion was adopted.*

Clause 9 was added to the Bill.

Mr. SPEAKER.—The question is :

“That Clauses 10 and 11 stand part of the Bill.”

*The motion was adopted.*

Clauses 10 and 11 were added to the Bill.

Mr. SPEAKER.—Clause 12. There is an amendment.

Sri M. C. NARASIMHAN.—I beg to move :

“That the words ‘and a fee of twenty-five Naye Paise shall be payable in respect thereof’ shall be deleted.”

Mr. SPEAKER.—Amendment moved:

“That the words ‘and a fee of twenty-five Naye Paise shall be payable in respect thereof’ shall be deleted.”

†Sri M. C. NARASIMHAN.—Sir, the point is very simple. If there is any change in the residence of the owner of the vehicle, to make the alteration, he has to pay 25 nP. I do not understand the justification for this. Unless it is said, because some entries are to be made that this should be paid. There is no reason for collecting this fee. Therefore, this should be deleted

Sri G. VENKATAI GOWDA.—Sir, there is a provision where if a person does not intimate the change of address, we will be punished. So, there no need for this provision. In the Motor Vehicle Act, no such fee is levied.

ಶ್ರೀ ಜಿ. ಬಿ. ಮಲ್ಲಾರಾಧು.—ಈ ಶುಲ್ಕ ಹಾಕಿರುವುದು ಬಹಳ ಅನ್ಯಾಯ ಸ್ವಾಮಿ, ಇದನ್ನು ತೆಗೆದು ಹಾಕಬೇಕು.

†ಶ್ರೀ ಎಚ್. ಎಂ. ಚನ್ನಬಸಪ್ಪ.—ಶುಲ್ಕ ಹಾಕಿರುವುದು ಬಹಳ ಕಡಮೆ; 25 ನಯೇ ಪೈಸೆ ಮಾತ್ರ. ಆದುದರಿಂದ ಇದು ಬೇಡವೆಂದು ತಾವು ಏಕೆ ಒತ್ತಾಯ ಮಾಡಬೇಕು! ಮೋಟಾರ್ ವಾಹನಗಳ ಕಾನೂನು ಪ್ರಕಾರ ಮೋಟಾರ್ ವಾಹನಗಳ ಮೇಲೆ ಕೊಡುವ ತೆರಿಗೆ ಮತ್ತು ಇತರ ಫೀಸ್ ಬೇಕಾದ್ದಿಲ್ಲ. ಆದುದರಿಂದ ನಮ್ಮ ಸಿಬ್ಬಂದಿ ಪೆಟ್ಟವನ್ನು meet ಮಾಡಲು ಸಾಧ್ಯವಾಗುತ್ತದೆ. ಈ ಸಂದರ್ಭದಲ್ಲಿ ಆ ರೀತಿ ಮಾಡಲು ಆಗುವುದಿಲ್ಲ. ಆದುದರಿಂದ 25 ನಯೇ ಪೈಸೆ ಕೊಟ್ಟು transfer ವಗೈರೆ ಮಾಡಿಸಿಕೊಂಡು ಹೋಗಿ ಎನ್ನುವುದರಲ್ಲಿ ಮಹಾಜರಾದ್ದಿಲ್ಲ. ಇದು ಬಹಳ ಭಾರಿ ಮೊತ್ತ ಎಂದು ಒತ್ತಾಯ ಮಾಡಲೇಕಾದ್ದಿಲ್ಲ. ಹೊರೆಯಾಗುತ್ತದೆನ್ನುವ ಕಾರಣದಿಂದ ಒತ್ತಾಯ ಮಾಡಬೇಕಾದ್ದಿಲ್ಲವೆಂದು ಹೇಳುತ್ತೇನೆ.

Mr. SPEAKER.—The question is :

“That the words ‘and a fee of twenty-five Naye Paise shall be payable in respect thereof’ shall be deleted.”

*The Amendment was negatived.*

Mr. SPEAKER.—The question is :

“Clause 12 stand part of the Bill”

*The motion was adopted.*

Clause 12 was added to the Bill.

Mr. SPEAKER.—Clause 13. There is an amendment.

Sri M. C. NARASIMHAN.—I beg to move :

“That for the word ‘thirty’, in line 3, the word ‘sixty’ be substituted.”

Mr. SPEAKER.—Amendment moved :

“That for the word ‘thirty’, in line 3, the word ‘sixty’ be substituted.”

†Sri M. C. NARASIMHAN.—Sir, this is only to increase the appeal period from 30 days to 60 days. In several other enactments, Government have accepted the principle of 60 days.

ಶ್ರೀ ಎಚ್. ಎಂ. ಚನ್ನಬಸಪ್ಪ.—ಅಪೀಲ್ ಪೀರಿಯಡ್ ಯೂನಿಫಾರಂ ಆಗಿರಬೇಕು. ಒಂದೇ ತರಹದಿರಬೇಕು. 30 ದಿನಕ್ಕಿಂತ ಹೆಚ್ಚಿಗೆ ಕಾಲ ಅಪೀಲ್ ಮಾಡಲು ಬೇಕು ಎನ್ನುವುದು ಸರಿಯಲ್ಲ. 60 ದಿನಗಳವರೆಗೂ ಇಟ್ಟುಕೊಂಡು ಅಪೀಲ್ ಹಾಕುವುದನ್ನು ಮುಂದುವರಿಸುವುದಕ್ಕೆ ಬದಲಾಗಿ 30 ದಿನಗಳೇ ಸಾಕು. ದಯವಿಟ್ಟು ತಿದ್ದುಪಡಿಯನ್ನು ಒತ್ತಾಯ ಮಾಡಬೇಡಿ ಎಂದು ಹೇಳುತ್ತೇನೆ.

Mr. SPEAKER.—The question is :

“That for the word ‘thirty’, in line 3, the word ‘sixty’ be substituted.”

*The Amendment was negatived.*

Mr. SPEAKER.—The question is :

“That clause 13 stand part of the Bill.”

*The Motion was adopted.*

Clause 13 was added to the Bill.

Mr. SPEAKER.—Clause 14. There is an amendment.

Sri M. C. NARASIMHAN.—I beg to move :

“That at the end of sub-clause (2) the following words shall be added:—

“The Controller shall cause the renewal to be done within a week from the date of the said application.”

Mr. SPEAKER.—Amendment moved :

“That at the end of sub-clause (2) the following words shall be added:—

“The Controller shall cause the renewal to be done within a week from the date of the said application.”

†Sri M. C. NARASIMHAN.—Sir, there is nothing specifically enjoining upon the Controller to immediately renew the number on the vehicle. If the particular applicant does not show that it has been renewed, then he is liable for punishment.

Sri G. VENKATAI GOWDA.—Within a week this should be done.

†Sri H. M. CHANNABASAPPA.—I agree that there should be responsibility on the part of the Controller to see that things are done very quickly. Under the rules, we will make provision for it and fix as small a period as possible so that the party may not be harassed.

*The Amendment was, by leave of the House, Withdrawn.*

Sri J. B. MALLARADHYA.—Sir, yesterday, the Hon'ble Minister was all out to accept the amendments. To-day he is all out not to accept.

Sri H. M. CHANNABASAPPA.—Sir, there are certain things which are to be included in the Act and certain things which are to be included in the rules. Whatever that could be covered in the rules I assure the Hon'ble Members, would be done. For such things which are to be included in the Act, I will accept.

Sri M. C. NARASIMHAN.—Sir, I move.

“That in sub-clause (2) between the words ‘every owner who’ and the word ‘controvenes’ the word ‘wilfully’ shall be inserted.”

Mr. SPEAKER.—The Amendment moved:

“That in sub-clause (2) between the words ‘every owner who’ and the word ‘controvenes’ the word ‘wilfully’ shall be inserted.”

† Sri M. C. NARASIMHAN.—This is with a view to avoid possible harassment to the owner. That is why I have suggested that the word “wilfully” be inserted.

Sri G. VENKATAI GOWDA.—When any words or figures may not be distinct and when they are obliterated—in certain cases, with no intention on the part of the owner, this will have happened for natural causes or causes beyond the control of the owners of vehicle. In such cases, margin has to be given. If it is wilfully done, than he can be punished. If the word “wilfully” is inserted, I think it will secure the ends of justice.

† Sri H. M. CHANNABASAPPA.—If I accept the insertion of the word “wilfully”, who is to prove that in a particular case, it is wilfully done? All that is said in this provision is that the number should be legible and visible and clear. And it is his duty to see that these numbers are kept always visible and if it becomes obliterated for and reason, he can immediately go and get it rectified.

Sri M. C. NARASIMHAN.—I withdraw the amendment Sir.

*The amendment was by leave of the House withdrawn.*

Mr. SPEAKER.—The question is :

“That Clause 14 stand part of the Bill.”

*The motion was adopted.*

Clause 14 was added to the Bill.

*Clause 15.*

Mr. SPEAKER.—The question is :

“That Clause 15 stand part of the Bill.”

*The motion was adopted.*

Clause 15 was added to the Bill.

*Clause 16.*

Sri M. C. NARASIMHAN.—Sir, I move :

“That in sub-clause (1) for the words ‘whom he may consider fit’ the words ‘who satisfies the provisions of this Act and rules thereunder’ shall be substituted.”

Mr. SPEAKER.—The Amendment moved:

“That in sub-clause (1) for the words ‘whom he may consider fit’ the words ‘who satisfies the provisions of this Act and rules thereunder’ shall be substituted.”

† Sri M. C. NARASIMHAN.—The point is, the Controller may grant licence to a person whom he considers fit. It is very difficult to obtain relief in the courts if the Controller refuses for *mala fide* reasons, even

it the refuses to grant licence unjustly. What I am suggesting to the Government is that all the requirements may be prescribed under rules or in the Act itself and the person concerned should be asked to comply with those requirements. If we simply say, 'whom he may consider fit', it is too wide and it is liable to be abused and the particular applicant will not have any means of redressal. It is in order to clarify that, I have suggested the substitution of these words. If the same intention can be secured or effectuated by any other wording, I have no objection.

† Sri H. M. CHANNABASAPPA.—I have got it examined by the Law Department. The intention of the mover of the amendment will be amply met even as it is. I therefore request that the amendment may be withdrawn.

Sri M. C. NARASIMHAN.—I beg leave to withdraw the amendment, Sir.

*The amendment was by leave of the Assembly withdrawn.*

Sri M. C. NARASIMHAN.—Sir, I beg to move:

"That in sub-clause (4), the words 'or any other reason to pursue the occupation of a driver of a public conveyance' shall be deleted."

Mr. SPEAKER.—Amendment moved:

"That in sub-clause (4), the words 'or any other reason to pursue the occupation of a driver of a public conveyance' shall be deleted."

† Sri M. C. NARASIMHAN.—Sir, the clause as it stands, enables the Controller to refuse to grant any licence to a person if he is satisfied that he cannot pursue the occupation of a driver for any reason whatsoever. This is also rather wide. Yesterday, the Home Minister was trying to explain that it would be for reasons of the type mentioned namely, bad character or the driver is not competent etc. Whatever that be, the conditions already prescribed are quite sufficient. I do not see any reason why further conditions and further requirements in respect of vehicles like jutkas and carts, are necessary. I can understand them in the case of mechanical propelled motor cars, auto-rikshaws etc. I am afraid it will be very wide and it will be giving unnecessary powers to the controller to refuse licence to any *bona fide* applicant. The words "if in his opinion", as long as these words are there, the courts are powerless, because it is made subject to the satisfaction of the person who issues licence. Even if it is arbitrarily refused, the courts may not be of any help to the victimised person.



† Sri G. VENKATAI GOWDA.—There is much logic and force in the argument put forward by my friend Sri Narasimhan, Sir. For any refusal, there must be good reason. Two reasons are stated, one is bad character and another reason is, incompetent. These are the grounds on which a licence can be refused. But you have gone further and provided that it can be refused for any other reason to pursue the occupation. What could be the other reason? It should not be left to the whims and fancies of the licencing authority. In my opinion Sir, it is not desirable to have that phrase. It may kindly be deleted.

† Sri H. M. CHANNABASAPPA.—It is rather surprising that a lawyer like Mr. G. Venkatai Gowda should make an argument of this kind. It is not clear why my friend cannot understand that the reasons noted in the clause are only illustrative and not exhaustive. Yesterday I have taken a lot of pains to explain that term 'any other reason', will only mean any other reason of the type that are enumerated. Since, we cannot exhaustively incorporate all the reasons and all disqualifications, we have said, incompetency, carelessness, unfitness, bad character or any other reason of that type. I am advised by the Law Department that it is only indicate that, it is illustrative and not exhaustive, that we have introduced that wording. In the light of the explanation, I am sure that my friend Shri Venkatai Gowda will see the reason behind it and withdraw the amendment.

Sri M. C. NARASIMHAN.—I withdraw the amendment Sir.

*The amendment was by leave of the Assembly, withdrawn.*

Mr. SPEAKER.—I will put the clause. The question is:

“That Clause 16 stand part of the Bill.”

*The motion was adopted.*

Clause 16 was added to the Bill.

Mr. SPEAKER.—The Question is:

“That Clauses 17 and 18 stand part of the Bill.”

*The motion was adopted.*

Clauses 17 and 18 were added to the Bill.

3—00 P.M.

*Clause 19.*

Sri H. M. CHANNABASAPPA.—I beg to move.

“That after the words ‘Controller may’, the words ‘reasons to be recorded in writing’ shall be inserted.”

Mr. SPEAKER.—Amendment moved:

“That after the words ‘Controller may’, the words ‘for reasons to be recorded in writing’ shall be inserted.”

†Sri H. M. CHANNABASAPPA.—Sir, this amendment does not require any comments. During the course of the discussion it was brought to my notice that although an appeal is provided under section 20 still it is better to clarify the position. That is why the words “for reasons to be recorded in writing” are sought to be added so that in appeal the party might be facilitated.

Mr. SPEAKER.—The question is :

“That after the words ‘Controller may, the words ‘for reasons to be recorded in writing’ shall be inserted.”

*The amendment was adopted.*

Sri M. C. NARASIMHAN.—I beg to move :

“That the following proviso shall be added at the end :—

Provided that the period of suspension may last till such period as the unfitness lasts.”

Mr. SPEAKER.—Amendment moved :

That the following proviso shall be added at the end :

“Provided that the period of suspension may last till such period as the unfitness lasts.”

†Sri M. C. NARASIMHAN.—This is only a clarificatory amendment. The suspension by the Controller should not last beyond the period of the unfitness. Unfitness may be of several varieties. The infirmity or disability attaching to the man may not last throughout the period of suspension. Though the suspension may be there for a period of 4 months the unfitness may cease after 2 months. That is why I have said that the suspension should be only for the period of unfitness.

Sri G. VENKATAI GOWDA.—It is unfortunate that I have to oppose this amendment. When the person becomes a fit man he can again apply and get licence.

Sri M. C. NARASIMHAN.—In view of Sri Venkatai Gowda's opposition, I beg leave of the House to withdraw the amendment.

*That Amendment was, by leave of the House withdrawn.*

Mr. SPEAKER.—The question is :

“That Clause 19, as amended, stand part of the Bill.”

*The motion was adopted.*

Clause 19, as amended, was added to the Bill.

Mr. SPEAKER.—The House will now rise and will meet after half an hour

*The House adjourned for recess at Ten Minutes past Three of the Clock and re-assembled at Forty-Five Minutes past Three of the Clock.*

[Mr. SPEAKER in the Chair.]

*Clause 20.*

Sri. M. C. NARASIMHAN.—I beg to move :

“That for the word ‘thirty’ the word ‘sixty’ shall be substituted.”

Mr. SPEAKER.—Amendment moved :

“That for the word ‘thirty’ the word ‘sixty’ shall be substituted.”

Sri M. C. NARASIMHAN.—In view of the assurance of the Minister, I withdraw the amendment.

*The amendment was by leave of the House withdrawn.*

Mr. SPEAKER.—The question :

“That Clause 20 stand part of the Bill.”

*The motion was adopted.*

Clause 20 was added to the Bill.

*Clause 21*

Mr. SPEAKER.—The question is :

“That Clause 21 stand part of the Bill.”

*The motion was adopted.*

Clause 21 was added to the Bill

Sri M. C. NARASIMHAN.—Sir, I beg to move :

“That in sub-clause (4) after the first sentence ending with the words ‘.....in sub-section (3) of section 16,’ for the ‘full-stop,’ a ‘comma’ shall be substituted, and the following proviso shall be added :—

Provided that where the badge has become indistinct due to reasons beyond the control of the driver the fee payable for the purposes of this section shall be one rupee.”

Mr. SPEAKER.—Amendment moved :

“That in sub-clause (4) after the first sentence ending with the words ‘.....in sub-section (3) of section 16,’ for the ‘full-stop,’ a ‘comma’ shall be substituted, and the following proviso shall be added :—

Provided that where the badge has become indistinct due to reasons beyond the control of the driver the fee payable for the purposes of this section shall be one rupee.”

†Sri M. C. NARASIMHAN.—Sub-section (4) of section 22 prescribes the conditions under which the driver will have to renew his licence. When it becomes indistinct or obliterated, he will have to renew. If it is lost, or stolen he is entitled to make an application and get a new licence. But there should be a distinction between a case where a badge becomes indistinct beyond the control of the driver and the case wherein he loses or he complains that the badge is stolen. In cases where it is lost or stolen, it is negligence. He can definitely be levied the same fee as mentioned for the original licence, namely Rs. 2 but in the cases of a badge becoming indistinct or getting obliterated due to natural causes, then it is not proper or fair to insist on the same amount of fee being levied as prescribed in the case of the original licence. There is another thing. After all, the licence is valid for one year. Suppose it becomes indistinct at the tail-end of the year, a month before the expiry of the licence, he will have to pay Rs. 2 and get it renewed. If it is renewed, it is valid for a month or so. A distinction has to be made between the two cases and I hope the amendment will be accepted.

†Sri H. M. CHANNABASAPPA.—Though I appreciate the feelings of the Hon'ble Member that a distinction should be made between the two cases, case No. 1 where he loses the badge and the other case where it becomes obliterated or the badge becomes illegible, how are we to distinguish the cases where the cause is due to natural cause and the cases where the cause is due to neglect of duty on the part of the driver. If I make a distinction between the two, where am I to get evidence. My view is that it is the duty of the driver to keep the licence well in tact and when the duty is cast on him he will have to look after it very carefully and see that it is maintained properly. We will see that the badges are so prepared that if they are kept properly, they will last for one full year and when that is done, if in spite of it, it get obliterated, it automatically means that it is due to the negligence of the driver. It is very difficult to draw a line as to wilful negligence and natural cause. In the working of it it becomes very difficult. Therefore, I suggest that the amendment may be withdrawn.

Sri M. C. NARASIMHAN.—I don't press the amendment.

*The amendment was by leave of the House, withdrawn*

Mr. SPEAKER.—The question is :

“That Clause 22 stand part of the Bill.”

*The motion was adopted.*

Clause 22 was added to the Bill.

Mr. SPEAKER.—Clause 23.

Sri M. C. NARASIMHAN.—Sir, I beg to move :

“That in sub-clause (1), the following sentence shall be added.—

“The Controller shall thereupon forthwith issue a fresh licence for the next registration year in accordance with the provisions of this Act and the rules thereunder.”

Mr. SPEAKER.—Amendment moved :

“That in sub-clause (1), the following sentence shall be added:

The Controller shall thereupon forthwith issue a fresh licence for the next registration year in accordance with the provisions of this Act and the rules thereunder.”

†Sri M. C. NARASIMHAN.—This is only by way of clarification. Here also supposing the application is made for renewal of the licence and the Controller or the authority does not renew it immediately. Then there is likelihood of the driver coming within the mischief of the law because within three days immediately after the expiry of the period of licence, when he is found without a licence, then he is liable to be prosecuted. But correspondingly there is no obligation on the part of the Controller to renew the licence immediately. Normally it will be better, but it is better that it is provided for in the Act itself as is done in the case of the Motor Vehicles Act.

†Sri H. M. CHANNABASAPPA.—Here also, Mr. Narasimhan will see how ridiculous it will be if we accept his amendment. The provision of this sub-clause is : “Upon the expiry or other termination of any licence granted to a driver under this Act, he shall deliver such licence and his badge to the Controller.” This deals with cases of expiry of the licence or where the licence is terminated. When once it has expired or it is terminated, it is open to the driver to have it renewed or not. If I accept your amendment, it will become mandatory on the part of the Controller to renew the licence whether he wants it or not. If I add this sentence ‘The Controller shall thereupon forthwith issue a fresh licence’, supposing he does not want it. That is why I am saying that, if accept your amendment it will become incumbent on the part of the Controller to issue a licence.

Sri M. C. NARASIMHAN.—If it is in accordance with the provisions of this Act, it means, he has to make an application under Section 5.

Sri H. M. CHANNABASAPPA.—When it expires, supposing he applies. Automatically it will get issued.

Sri M. C. NARASIMHAN.—Supposing it is not done; he will come within the mischief of Section 22.

Sri H. M. CHANNABASAPPA.—It is for him to determine whether he wants a licence or not. He must apply well in advance so that immediately after the expiry of the licence, it will be renewed immediately. Therefore, this becomes redundant.

Sri M. C. NARASIMHAN.—There is no provision made fixing the time within which he should apply.

Sri H. M. CHANNABASAPPA.—Any way, I will examine the implications of what you have said and try to provide for contingencies, if it is necessary. Whatever is necessary will be done in order to remove the lacuna, if any, in order to create conditions which help

the keeping of the licence in continuity. I will examine the position and provide for such things.

4-00 P.M.

Sri G. VENKATAI GOWDA.—We have this in the other enactments Sir,

Sri H. M. CHANNABASAPPA.—I have appreciated your view point whatever is necessary in that respect we will try to provide in the rules.

*The amendment was, by Leave of the House, Withdrawn.*

Mr. SPEAKER.—Clause 23. The question is :

“That Clause 23 stand part of the Bill.”

*The motion was adopted.*

Clause 23 was added to the Bill.

Mr. SPEAKER.—The question is :

“That Clauses 24 to 28, both inclusive, stand part of the Bill.”

*The motion was adopted.*

Clauses 24 to 28, both inclusive, were added to the Bill.

Mr. SPEAKER.—Clause 29. There is an amendment.

Sri V. SRINIVASA SHETTY.—I beg to move :

“That the words ‘and used for the purpose of agriculture’ shall be deleted.”

Mr. SPEAKER.—Amendment moved :

“That the words ‘and used for the purpose of agriculture’ shall be deleted.”

†Sri V. SRINIVASA SHETTY.—Sir, this portion appears to be unnecessary. What is the agricultural purpose and who is going to determine it? Should the agriculturist always carry only manure or crop produce in his carts? Where you try to draw the line, I cannot understand : because you are dealing with the illiterate people of the village. This would give room for lot of difficulty to these poor people Sir, if these words are deleted, I do not think any harm would be done to the Bill. I suggest that these words may be dropped.

†Sri M. C. NARASIMHAN.—Sir, yesterday, the Home Minister was pleased to say that Seciton 29 was important and would be reconsidered a little. On the other hand, in the list of amendments he has chosen to move, there is no reference to Section 29. I remember that he gave an assurance that he will look into the matter and he himself felt that there was some difficulty about the agriculturist coming to the town where this provision would raised. He has not provided even for the exceptional difficulty which will arise in the enforcement of this Act.

†Sir H. M. CHANNBASAPPA.—Sir, this Act applies only to certain notified areas and such notifications should be issued to enforce this law to places like Mysore, Bangalore, etc. So far as agriculturist living within the notified areas are concerned, it is likely that such agriculturists, if exempted, will not come within the purview of the operation of the Act. Such people are very few. I know that many agriculturists in the rural areas do come to the cities and towns not merely to transact their own business and sell their produce but also hire their cards for carrying charcoal, fuel and hay which may be agricultural produce. This is a source of living for poor agriculturist who entirely depend on agriculture. Yesterday, I made an assurance that it is not the intention of the Government to bring those people under this Act. It is with that view that I made an assurance and Mr. Narasimhan is rather surprised as to why I did not propose an amendment in the name of Mr. Srinivasa Shetty and therefore there is no necessity for another amendment by me. I have no objection to accept the amendment of Mr. Srinivasa Shetty.

Mr. SPEAKER.—The question is:

“That the words ‘and used for the purpose of agriculture’ shall be deleted.”

*The amendment was adopted.*

Mr. SPEAKER.—The question is:

“That clause 29, as amended, stand part of the Bill”

*The motion was adopted.*

Clause 29, as amended, was added to the Bill.

Mr. SPEAKER.—Clause 30.

Sri M. C. NARASIMHAN.—I beg to move :

“that the following proviso shall be added at the end of sub-clause (1):

Provided that such fares may be fixed after calling for objections from the public.”

Mr. SPEAKER.—Amendment moved:

“That the following proviso shall be added at the end of sub-clause (1):

Provided that such fares may be fixed after calling for objections from the public.”

†Sri M. C. NARASIMHAN.—Sir, the provision as it stands provides for fixing of proper fare by means of notification in the Gazette, but there is no provision whereby a draft notification is first issued objections are called for and considering the objections before fixing such rates. Sir, recently Government chose to revise the rates of taxies and in that case also this was not done. So, before this is done

the Government or the Controller should call for objections from the public and after taking into account all this, the rates should be fixed.

Sri G. VENKATAI GOWDA.—Sir, if the Hon'ble Minister were to assure that he would provide for this in the rules. We have no objection to withdraw the amendment.

†Sri H. M. CHANNABASAPPA.—Sir, there is ample provision in the rule making power to provide for all such contingencies. It is not the intention of the Government to fix the rates arbitrarily without reference to the cost of maintenance of these vehicles and cost of maintenance of animals and the drivers and all that. We will take all this into consideration and work out the reasonable rate.

*The amendment was, by leave of the house, withdrawn.*

Mr. SPEAKER.—Clause 30. The question is:

“That clause 30 stand part of the Bill”

*The motion was adopted*

Clause 30 was added to the Bill.

Mr. SPEAKER.—The question is:

“That Clause 31 stand part of the Bill.”

*The motion was adopted*

Clause 31 was added to the Bill.

#### *Clause 32*

Sri M. C. NARASIMHAN.—May I make a small amendment to this Clause Sir, with your permission. I am not making any substantial change.

“That at the end of the clause insert a comma and add the following namely:

and shall cause a copy of such list and table to be affixed to a conspicuous place in the vehicle wherever practicable for inspection by the hirer of vehicle.”

Mr. SPEAKER.—The Amendment moved:

“That at the end of the clause insert a comma and add the following at the end:

and shall cause a copy of such list and table to be affixed to a conspicuous place in the vehicle wherever practicable for inspection by the hirer of vehicle.”



†Sri M. C. NARASIMHAN.—As the clause stands, the driver is not bound to fix the table of rates in a conspicuous place of the vehicle. It is only where the hirer of the vehicle demands that he should produce the table of fares, etc. So far as I know to-day in old Mysore area, in some of the important cities, it is required that he should fix it in a conspicuous place. In jutkas for instance, it used to be fixed inside the vehicle. If that is not there, then it will be obligatory only if the hirer of the vehicle demands it. There may be difficulties in respect of the other types of vehicles where it may not be practicable. In rikshas it may not be possible. But in the case of the other vehicles drawn by horse, bullocks, it may not be difficult. But in the case of vehicles drawn by horse or bullocks, it may not be very important, because not very many people travel by such vehicles. In the case of jutkas which are really important, it becomes necessary and there is no difficulty at all for the Government to insist that it should be put in a conspicuous place.

†Sri H. M. CHANNABASAPPA.—Yesterday, during the course of my reply, I touched this point. Though I appreciate the spirit behind what Mr. Narasimhan says, it would be a little difficult to enforce the fixation of the table in a conspicuous place. The term 'wherever practicable' relates to these difficulties. It may be in the opinion of the hirer or the police officer it is practicable in a particular case and in the opinion of the owner of the vehicle, it may not be practicable. It is very difficult to fix up responsibility in regard to the practicability of fixing it. Government do appreciate that it is necessary particularly in the case of jutkas and such other covered vehicles that the table of fares must be shown in a conspicuous place so that the passenger may know what the fare that he has got to pay in respect of a particular journey. Therefore, instead of making it incumbent under the Act and try to enforce through the provisions of the Act, it may be left to the Government to see that in all vehicles, wherever practicable, this must be fixed; Government will keep what you have said in mind and while framing rules, we will say that in such and such a vehicle it is practicable and the table of fares should be fixed in a conspicuous place in jutkas and such other vehicles so that the passengers may have the advantage of looking at the fares wherever they want. Keeping that in view, we will frame rules.

With this assurance, I am sure that Mr. Narasimhan will kindly withdraw his amendment.

Sri M. C. NARASIMHAN.—I beg leave to withdraw the amendment, Sir.

*The amendment was by leave of the House withdrawn.*

MR. SPEAKER.—The question is:

“That clause 32 stand part of the Bill.”

*The motion was adopted*

MR. SPEAKER.—Clause 33. There is a Government amendment.

Sri H. M. CHANNABASAPPA.—Sir, yesterday during the course of the debate, I promised that I would examine the implications of clause 33 and introduce such amendments as are necessary.

I beg to move:

“That sub-clause (2) shall be omitted.”

“That sub-clause (3) shall be re-numbered as sub-clause (2) and in the said sub-clause for the words ‘this section’, the word, figure and brackets sub-section (1), shall be substituted.”

Mr. SPEAKER.—Amendment moved:

“That sub-clause (2) shall be omitted.”

“That sub-clause (3) shall be re-numbered as sub-clause (2) and in the said sub-clause for the words “this section”, the word, figure and brackets ‘sub-section (1)’, shall be substituted”.

†Sri H. M. CHANNABASAPPA.—Sir, yesterday in the course of discussion, I had promised that I would examine the implications of Clause 33 and introduce such amendments as are necessary. In order to implement the ideas that were thrown up for consideration of the Government, these amendments are suggested. Government do see reason in removing sub-clause (2) which says:

“(2) When any such carriage is hired by time, the driver thereof shall drive the same at a rate of speed not less than that prescribed by the Controller.”

It is true there are difficulties, because we cannot fix speedometers to many of these vehicles. It will be difficult to determine at what speed the vehicle was moving. Therefore, I have moved that sub-clause (2) may be deleted. The other two amendments are merely consequential.

In regard to distances, they carefully go through the Clause. You will understand that there is no bar for anybody to go beyond certain distances. But when a person has hired a vehicle the owner of that vehicle or the driver is bound by certain obligations.

This is only to prescribe certain obligations to be performed by the driver and not to come in the way of his going beyond certain limits. For instance if it is said that he shall ply for hire for 3 miles it is obligatory on his part to do so, but if he wants to go 4½ miles he can but he shall not refuse to go at 3 miles. It is only to fix the responsibility that provision is made.

Mr. SPEAKER.—The question is:

“That sub-clause (2) shall be omitted”

“That sub-clause (3) shall be re-numbered as sub-clause (2) and in the said sub-clause for the words ‘this section’ the word, figure and brackets ‘(sub-section (1))’ shall be substituted.

*The amendment was adopted.*

Mr. SPEAKER.—The question is:

“That clause 33, as amended, stand part of the Bill.”

*The motion was adopted.*

Clause 33, as amended was added to the Bill.

Mr. SPEAKER.—The question is.

“That clauses 34 and 35 stand part of the Bill”

*The motion was adopted.*

Clauses 34 and 35 were added to the Bill.

*Clause 36.*

Sri V. SRINIVASA SHETTY.—I beg to move:

“That item (a) shall be deleted.”

Mr. SPEAKER.—Amendment moved:

“That item (a) shall be deleted.”

† Sri V. SRINIVASA SHETTY.—I am unable to understand the attitude of the Government with regard to this item about consumption of liquor. I would like to invite the attention of the Minister to clauses 59 and 76 of the Prohibition Act. In clause 59 punishment is 6 months for the first offence and one year for the subsequent offence of consumption or possession or transport of any intoxicants. Under clause 76 for a person who after consuming liquor behaves in a disorderly manner the punishment is much lenient. For the same offence the driver of a public vehicle who is drunk during his employment is punished with a fine of Rs. 100 or imprisonment of one month. This shows the inconsistency of our law-makers. I am unable to understand these categories of drunkenness. A person who consumes liquor is one category. A person who consumes liquor and behaves himself in a disorderly manner is dealt with more leniently than the man who merely consumes liquor. Then a driver of a public vehicle who is drunk is dealt in a still more lenient way. This is nothing but ludicrousness. Somebody has lost his head somewhere.

Then you say “the driver of a public vehicle during his employment”. What exactly is meant by “during employment” is not known. The driver of a motor vehicle if he commits an offence under the Motor Vehicles Act as a driver while driving with out being drunk is punished more than a driver who is drunk. This is not punishment for drinking as such. A driver is expected to be sober. The term used here does not say “while driving the vehicle” but it says “during the employment”. A driver is employed by month or year. If a driver is drunk not while driving but during his employment under the owner, will this sub-section apply? That is why I have moved this amendment.

4-30 P. M.

† Sri J. B. MALLARADHYA.—The House may recollect that when I was making general observations, I suggested this sub-clause being withdrawn on the ground of the looseness, the manner of wordings used. I really could not understand the English. Supposing there is a temporary driver employed for a period of 3 days and he is found to be drunk. Does he come within the limit of the law according to this clause, or suppose he is addicted to drink. There are some people who are more active, vigilant and agile if they are drunk. I am usually afraid of sitting in the cars of my friends after a dinner, after they have boozed. But they appear to be more sober and more control in the steering wheel than they are ordinarily. No purpose is served by having this sub-clause (a).

From the point of view of good English, this clause offends. Looking at from any point of view, this sub-clause must go.

† Sri M. C. NARASIMHAN.—Sub-clause (a) is not in harmony with the other sub-clause (b) to (g). The nature of offences enumerated from (b) to (g) are of a particular type, but (a) is altogether different. (b) to (g) deals with many of the offences directly attributable to the irresponsibility of the driver. It may be due to a variety of causes. But an offence of the type mentioned in (a) could be treated in accordance with the prohibition Act. If the case of the Government was that he should be punished if he was drunk while driving, action could be taken to include a similar clause under the Motor Vehicles Act so that it would not be severe or incongruous.

† Sri G. VENKATAI GOWDA.—If a driver is drunk during employment, has it any relationship with the contract that he has taken. He might have contracted to take some passenger to some distance. But the commission of the offence has no reference to the performance of the contract. Such being the case I do not see the logic behind this. In addition to it, there is a provision which provides for penal punishment for persons who take to drinking. I would invite attention to the way in which offences are made punishable under the Prohibition Act. I find that a severe offence is punished with a lesser sentence while a man taking to a little drinking is punished with higher sentence. I request that this clause be deleted.

† Sri H. M. CHANNABASAPPA.—I am rather very much surprised that the Leader of the Opposition and three very important Members of the Opposition should rise to make the objections they did. Mr. Srinivasa Shetty spoke as though there was a lot of inconsistency in the approach of Government. I would only say these Hon'ble Members have not examined the case correctly. There are two types of offences: one the offence of drinking and another to drive a vehicle when a person is drunk. These two offences are quite different. The offences pertaining to driving a vehicle when the driver is drunk will be dealt with under this Act and the offence of drinking will be dealt with

(Sri H. M. CHANNABASAPPA).

under the Prohibition law. We have dry areas and we have wet areas. If a driver drives while drunk in a dry area, he would be charged under two enactments, that is, this act and the Prohibition Act. In a wet area, the person would be charged only under this Act.

Sri M. C. NARASIMHAN.—Supposing a vehicle is kept in the stand and the driver is drunk?

Sri H. M. CHANNABASAPPA.—If he is ready for driving, the legal presumption is that he is ready to drive the vehicle and is an offender. There is absolutely no inconsistency. *Prima facie* it may appear that the provision is inconsistent but a careful look would make the position clear.

In regard to the question of employment, I am advised by the Law Department that the term "employment" will mean while driving.

Sri J. B. MALLARADHYA.—Then why not make it clear "while driving" in employment?

Sri H. M. CHANNABASAPPA.—The legal phraseology is that and it would be unnecessary to expand it further.

Sri J. B. MALLARADHYA.—A driver on duty is a driver. He puts his vehicle in a public stand and he drinks. At any moment he may be called by anybody to drive the car or cart.

Are you going to restrict it? It is more dangerous for any passenger to engage the services of a driver when he is dead drunk and till he actually sits in the cart, he does not become liable. Is that the suggestion?

Sri H. M. CHANNABASAPPA.—I have already clarified the position. When the person is along with the vehicle in the stand where the vehicles are supposed to be, he is ready for being employed for work and when he is in a state of drunkenness at that time it would be an offence.

Sri J. B. MALLARADHYA.—The word 'employment' does not connote that he is driving.

Sri H. M. CHANNABASAPPA.—When he is ready for doing certain things, if only a passenger comes, it will automatically mean that the driver is prepared to take it up if an offer comes. Here we are dealing with item (a) of clause 36. "Every driver of a public conveyance who is drunk during his employment..." It is that drunkenness that comes in for punishment.

Sri J. B. MALLARADHYA.—We all feel very strongly with this expression "is drunk during his employment". The sub-section should not be there. Even now I want the Minister to reconsider the position and eliminate it. If drunkenness is an offence, if he is found to be in a state of drunkenness, whatever the cause is, he is punishable under

any other clause and not necessarily under this clause. He comes within the purview of the law only because of drunkenness, not because of anything else.

Sri H. M. CHANNABASAPPA.—Drunkenness is one thing. Driving a vehicle knowing that he is drunk is a different thing. The two things are different. The driver comes in for punishment for driving the vehicle or being ready to drive the vehicle in a state of drunkenness. For the offence of drinking we will take it up separately under the Prohibition Act if it is a wet area. If a driver is in a state of drunkenness, it is presumed he will not be in the normal state of mind and anything might happen. The life of the passenger is more important to us because the driver will not be capable of driving the vehicle in a way he would have driven it if he had the balance of mind. We make it punishable under this Act. It is rather surprising that this benevolent provision of preventing a person from driving in a state of drunkenness and making it punishable should be opposed tooth and nail by Members of the Opposition who do realize that the life of the passenger has got to be safe guarded and such driver should be prevented from undertaking the driving. Without further discussion, I will appeal to the Hon'ble Member to withdraw the amendment.

Sri J. B. MALLARADHYA.—We will press the amendment.

Mr. SPEAKER.—The question is :

“That item (a) shall be deleted.”

*The amendment was negatived.*

Mr. SPEAKER.—Amendment No. 22.

Sri M. C. NARASIMHAN.—Sir, I beg to move :

“That the words ‘or with imprisonment which may extend to one month or with both’ occurring towards the end of the Clause, shall be deleted.”

Mr. SPEAKER.—Amendment moved :

“That the words ‘or with imprisonment which may extend to one month or with both’ occurring towards the end of the Clause, shall be deleted.”

† Sri M. C. NARASIMHAN.—Day before yesterday while making observation on this Bill, the Leader of the Opposition suggested that imprisonment which may extend to one month for some of the offences enumerated in this clause would be too severe and would not be appropriate. Some of the offences are of very minor consequence.

“Makes use of insulting or abusive language or gesture”, “carries more than the number of passengers the vehicle is licenced to carry”. It is true the Magistrate may use discretion. But most of the offences are of minor character, though important from the point of view of the rights of the public. We should have some sense of proportion while

(Sri M. C. NARASIMHAN)

prescribing punishment. A fine of Rs. 100 is sufficiently deterrent, is fairly severe punishment so far as the jutka driver is concerned. I may also say that this is only with respect to this particular section. There is another section, that is section 43 where imprisonment is provided for. We are not seeking an amendment in that clause.

† Sri J. B. MALLARADHYA.—I would like the Minister to convince us whether any one of the offences except item (a) justify imprisonment. Is it criminal to demand an advance payment. Supposing the driver is rather suspicious about the capacity of the passenger to pay and he asks for advance. Supposing from morning till evening he travels and the distance is considerable and the poor jutka pony is tired and he finds that he has no money. 'refuses to admit and carry in such vehicle the number of passengers the vehicle is licensed to carry'. Supposing the pony is ill, not sufficiently capable of taking the maximum load. His intention may be to earn as little as possible and he may prefer to allow only two people to sit. But, if you say that four must be allowed and if he does not, he will be punished. This is not correct. Sir, (q) says :

“Permits the inside of the public conveyance of which he is in charge, to become dirty”

Sir, the sense of decency or dirt differs from person to person. If a man smokes a beedi, I may think he is dirty but if I smoke a highest brand of cigarette, the other person may think I am dirty. The law department may say that this kind of provision is there in Bombay and Andhra Bill. But, that is not the ground. They may say that it has been passed by the Legislative Council and it has gone through the Select Committee and all that. My general ground on which I oppose is, many of the sub-sections here appear to be too frivolous to warrant any punishment of imprisonment. I appeal to the Minister to accept this.

† Sri H. M. CHANNABASAPPA.—Sir, I have here roaring complaints from the members of this House, particularly, on the opposite that the law has been very lenient and therefore, offences of the kind are increasing without any check. If the punishment is not stringent, the same attitude will continue. By merely providing for one month's imprisonment or 100 rupees fines does not mean that the Magistrate shall award the maximum punishment. It is open to him to use his discretion and punish as the degree of the offence warrants. But, it is better that we give sufficient power to the Magistrate and this is just to enable the Magistrate to use his discretion. This is to safeguard the interest of passengers to come to place knowing nothing of the place. They should be properly treated and taken to the place they want to go. I cannot accept the amendment.

Mr. SPEAKER.—The question is :

“That item (a) shall be deleted”

“That the words ‘or with imprisonment which may extend to one month or with both’ occurring towards the end of the clause, shall be deleted.”

*The amendment was negatived.*

Mr. SPEAKER.—The question is :

“That Clause 36 stand part of the Bill.

*The motion was adopted.*

Clause 36 was added to the Bill.

5-00 P. M.

*Clause 37.*

Mr. SPEAKER.—All the three amendments could be moved at once. If the Opposition agrees then there can be no discussion at all.

Sri H. M. CHANNABASAPPA.—I beg to move :

“That (1) : in sub-clause (1) for the words ‘produce the driver’, the words ‘furnish the name and address of the driver and such other particulars relating to him as the Magistrate may require’ shall be substituted.”

“That (2) ‘in sub-clause (2) for the words ‘or to produce the driver’ the words ‘and to furnish the particulars relating to the driver’ shall be substituted.”

“That (3) for sub-clause (3) the following sub-clause shall be substituted.”

“(3) where the owner is convicted under sub-section (2), the Magistrate may dispose of the complaint in the absence of the driver.”

Mr. SPEAKER.—Amendment moved :

“That in sub-clause (1) for the words ‘produce the driver’, the words ‘furnish the name and address of the driver and such other particulars relating to him as to the Magistrate may require’ shall be substituted ;”

“That in sub-clause (2) for the words ‘or to produce the driver’ the words ‘and to furnish the particulars relating to the driver’ shall be substituted ;”

“That for sub-clause (3) the following sub-clause shall be substituted :

(3) Where the owner is convicted under sub-section (2) the Magistrate may dispose of the complaint in the absence of the driver.”



Mr. SPEAKER.—Since there is agreement on all sides, I will put the amendment to the House.

The question is :

“That in sub-clause (1) for the words ‘produce the driver’, the words ‘furnish the name and address of the driver and such other particulars relating to him as the Magistrate may require’ shall be substituted ;”

“That in sub-clause (2) for the words ‘or to produce the driver’ the words ‘and to furnish the particulars relating to the driver’ shall be substituted ;”

“That for sub-clause (3) the following sub-clause shall be substituted :—

(3) where the owner is convicted under sub-section (2)”

*The amendment was adopted.*

Mr. SPEAKER.—The question is :

“That Clause 37 as amended stand part of the Bill.”

*The motion was adopted.*

Clause 37, as amended, was added to the Bill.

Mr. SPEAKER.—Clauses 38, 39, 40 and 41. The question is :

“That Clauses 38, 39, 40 and 41 stand part of the Bill.”

*The motion was adopted.*

Clauses 38, 39, 40 and 41 were added to the Bill.

Mr. SPEAKER.—Clause 42. There are amendments.

Sri M. C. NARASIMHAN.—I am not moving my amendment Sir.

Mr. SPEAKER.—The question is :

“That Clause 42 stand part of the Bill.”

*The motion was adopted.*

Clause 42 was added to the Bill.

Mr. SPEAKER.—The question is :

“That Clauses 43 and 44 stand part of the Bill.”

*The motion was adopted.*

Clauses 43 and 44 were added to the Bill.

Mr. SPEAKER.—Clause 45. There is an amendment.

Sri V. SRINIVASA SHETTY.—Sir, I beg to move:

“That in line 3, after the word ‘summons’, the following words shall be added:

‘more than once and wilfully’.”

Mr. SPEAKER.—Amendment moved:

“That in line 3, after the word ‘summons’, the following words shall be added:

‘more than once and wilfully’.

†Sri V. SREENIVASA SHETTY.—Sir, this is one of the clauses which to say the least is very unusual, because as far as I know, I have not come across similar provisions in any other Act. The clause reads like this:

“45: *Ex-parte disposal of criminal charges*: If in any prosecution under this Act the person charged does not appear as directed by the summons, the magistrate may, upon proof of service and if no sufficient cause be shown for the non-appearance, proceed to dispose of the case in his absence.”

I remember there is a provision under the Motor Vehicles Act in a similar offence, when the accused thinks that it is not necessary for him to appear, he is given the option and exemption is given to him from appearing before the court and he is allowed the option to send the fine fixed in the court. Here what is the punishment, we do not know. It may be fine; it may be imprisonment. Even in cases where the punishment is severe, fine or imprisonment, if the accused does not appear, and the magistrate may upon proof of service of summons—even here, how many summonses are to be served, we do not know. To those who are familiar with these methods in which summons are served, I shudder to accept the clause. For example, it is stated some times, ‘accused has refused summons: the accused is evading summons’ ‘accused is absent--summons is fixed to the House’. Well, the accused may be in the same village and for the convenience of the other party, they make some such statement in the court.

†Sri H. M. CHANNABASAPPA.—If the Hon’ble Member refers to the lacuna in the process of execution, well it may be that efficiency is low. That is a different matter. But when we are legislating, we have to take note of the fact that quick disposal of justice is very necessary.

Sri V. SRINIVASA SHETTY.—That is why I have given the amendment. That is why I have not asked for the deletion of the clause. I am against the accused being convicted *in absentia*.

Sri H. M. CHANNABASAPPA.—There are lawyers who tell them not to appear.

Sri V. SRINIVASA SHETTY.—Sir, though I am not a very good lawyer, I can be passed off as something of a lawyer. I may not be a very good lawyer.

Sri J. B. MALLARADHYA.—He is a criminal lawyer:

Sri H. M. CHANNABASAPPA.—A lawyer who handles criminal cases.

Sri V. SRINIVASA SHETTY.—There may be exceptional cases. But in general, we cannot always believe whenever it is said in court that summons are served. I cannot agree to a man being convicted by a court without hearing him. I also say that the deletion of the clause is not proper. Hence, I have suggested that instead of 'summons', the following words may be substituted, namely: 'more than once'.—'more than once and wilfully'. Let there be something to show that the accused is absent in the court of law, wilfully. Let there be some evidence. Even without any such thing, straightaway to convict the accused on the flimsy excuse is very harsh.

Sri G. VENKATAI GOWDA.—So, far I have not come across any clauses in any legislation which would give such powers to a court Sir.

Sri H. M. CHANNABASAPPA.—Particularly when lawyers speak, I take it they are careful.

† Sri G. VENKATAI GOWDA.—There may be provision for sending by money order the fine that is levied in a court. Under the criminal law of the land, a person is presumed to be innocent unless the contrary is provided. That opportunity is given to the accused only when the summons are properly served. To say that if in any prosecution under this Act the person charged does not appear as directed by the summon, the Magistrate may upon proof of service of summons and if no sufficient cause be shown for non-appearance, proceed to dispose of the case in his absence. If the accused does not appear in the even after the summons is served, the Magistrate can secure his presence in the court by issuing a non-bailable warrant. Why should the disposal of the case be made in his absence? If an accused does not turn up to the court even after summons, such persons must be dealt with more sternly and severely securing their presence through a non-bailable warrant, and dispose of the case according to law. I fail to understand the reasonableness of the *ex-parte* disposal. Even if you dispose of the case *ex-parte* how do you hope to implement that decree of the Court? Supposing he is fined Rs. 100 or he is convicted for 15 days. How do you hope to implement the decision of the Court?

And then you have got to secure the presence of the accused. So I do not see any reason to provide for *ex-parte* disposal of these criminal charges.

† Sri H. M. CHANNABASAPPA.—I am really sorry the Hon'ble Members of the Opposition have not been able to see the reason behind this provision. It has been our experience that the tendency to disrespect law is growing. It must be severely and quickly dealt with. It is rather surprising that criminal lawyers like Sri Shetty and Sri Venkatai Gowda who hail from Madras where they were practising, say that there is no provision of this kind in criminal law. I would like to draw their attention to the provision contained in Section 47 of the Hackney Carriages Act of Madras where a similar provision is to be

found. This is a question which pertains to quick disposal of cases and so there should not be any delay in the disposal of cases in order to meet out justice quickly. The provision says "the Magistrate may upon proof of service and if no sufficient cause is shown for non-appearance..." The two things indicate that the Magistrate should satisfy for himself that there has been sufficient proof of service and that for non-appearance there is no sufficient cause shown. These two things having been satisfied, I do not see why the Magistrate should not proceed with the case and dispose it of *ex-parte*. Therefore in the interest of quick disposal of cases I cannot appreciate the arguments of the Hon'ble Members.

Mr. SPEAKER.—The question is:

"That in line 3, after the word 'summons', the following words shall be added :

"more than once and wilfully'."

*The amendment was negatived.*

Mr. SPEAKER.—The question is:

"That Clause 45 stand part of the Bill."

*The motion was adopted.*

Clause 45 was added to the Bill.

Mr. SPEAKER.—The question is :

"That Clauses 46, 47 and 48 stand part of the Bill."

*The motion was adopted.*

Clauses 46, 47 and 48 were added to the Bill.

*Clause 49.*

Sri H. M. CHANNABASAPPA.—I beg to move :

"That for the words 'in uniform', the words 'not below the rank of a Sub-Inspector' shall be substituted."

"That paragraph (a) shall be omitted."

Mr. SPEAKER.—The question is :

"That for the words 'in uniform' the words 'not below the rank of a Sub-Inspector' shall be substituted."

*The amendment was adopted.*

Mr. SPEAKER.—The question is :

"That Clause 49, as amended, stand part of the Bill."

*The motion was adopted.*

Clause 49, as amended, was added to the Bill.

Mr. SPEAKER.—The question is :

“That Clause 50 stand part of the Bill.”

*The motion was adopted.*

Clause 50 was added to the Bill.

Mr. SPEAKER.—The question is :

“That Clause 1, the Short Title and the Preamble stand part of the Bill.”

*The motion was adopted.*

Clause 1 the Short Title and the Preamble were added to the Bill.”

*Motion to Pass.*

Sri H. M. CHANNABASAPPA.—I beg to move :

“That the Mysore Public Conveyances Bill, 1960, as passed be the Legislative Council and as amended be passed.”

Mr. SPEAKER.—The question is :

“That the Mysore Public Conveyances Bill, 1960, as passed by the Legislative Council and as amended be passed.”

*The motion was adopted.*

## THE MYSORE ANCIENT AND HISTORICAL MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS BILL, 1960 AS PASSED BY LEGISLATIVE COUNCIL.

*Motion to consider.*

Smt. GRACE TUCKER (Deputy Minister for Education).—I beg to move :

“That the Mysore Ancient and Historical Monuments and Archaeological Sites and Remains Bill, 1960; as passed by the Legislative Council, be taken into consideration.”

Mr. SPEAKER.—Motion moved :

“That the Mysore Ancient and Historical Monuments and Archaeological Sites and Remains Bill, 1960, as passed by the Legislative Council be considered.”

Smt. GRACE TUCKER.—This is a piece of legislation which was first introduced in the Council. The intention is to preserve the archaeological wealth, monuments and other antiquities of this new State. That does not mean there were no other Acts before this. In some parts of Mysore there were certain Acts. In the erstwhile Mysore State there was the Mysore Ancient Monuments Preservation Act, 1925. In Hyderabad there was the Hyderabad Ancient Monuments Preservation